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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CS(COMM) 108/2023

DIGITAL COLLECTIBLES PTE LTD AND ORS.

.....Plaintiffs

Through: Mr. Raj Shekhar Rao, Sr. Advocate with Mr. Prithvi Singh, Mr. Rohan Krishna Seth and Mr. Ritwik Marwaha, Advocates.

versus

GALACTUS FUNWARE TECHNOLOGY PRIVATE LIMITED AND ANR. .....Defendants

Through: Ms. Raj Latha Kotni, Mr. Anirudh Ramanathan, Ms. Swagita Pandey and Ms. Ananya Singh, Advocates for D-1.
Mr. Amit Sibal, Sr. Advocate with Mr. Maanav Kumar, Ms. Tara Narula and Ms. Bijaharini G., Advocates for D-2.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% 13.02.2025

1. In the present case, the application for interim injunction filed on behalf of the plaintiffs was dismissed by this Court vide judgment dated 26th April, 2023. Against the aforesaid judgment, the plaintiffs filed appeals being FAO (OS) (COMM) 95/2023, 96/2023 and 97/2023.

2. The aforesaid connected appeals were disposed of by the Division Bench *vide* order dated 15th April, 2024. The relevant extracts from the order

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passed by the Division Bench are set out below:

> *"1. We had in our order of 01 April 2024 taken note of the statement made by Mr. Amit Sibal, learned senior counsel appearing for the second respondent, and who had stated that the said respondent had discontinued and closed all games, features and marketplace services connected with the Striker Platform.*
>
> *2. Viewed in that backdrop, we had expressed our prima facie opinion that the appeal, for all practical purposes, had been rendered infructuous.*
>
> *xxx xxx xxx*
>
> *4. We are however of the opinion that since the question of grant of refusal of injunction, and which forms the core of the appeal before us itself no longer survives there would no justification for us to consider the questions of law which are raised in a vacuum. The appeals are clearly rendered infructuous and would merit being disposed of in light of the change in circumstances.*
>
> *xxx xxx xxx*
>
> *6. All that we need observe is that all rights and contentions of respective parties including those who had sought intervention in these proceedings are kept open. We also preserve the right of the appellants to seek revival of its challenge in case the second respondent were to relaunch the Striker Platform.*
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> *7. We also take on board the statement made by Mr. Sibal that in case the second respondent decides to relaunch the platform, it will accord a notice of at least two weeks to the appellants."*

3. In view of the aforesaid order passed by the Division Bench, the Coordinate Bench, *vide* order dated 22nd July 2024, directed the defendant no.2 to file an affidavit in compliance with the aforesaid order of the Division Bench within two weeks.

4. Pursuant thereto, an affidavit has been filed on behalf of defendant no.2 on 24th January, 2025.

4.1. A copy of the same has been handed over in Court.

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5. Mr. Amit Sibal, senior counsel appearing on behalf of the defendant no.2 submits that the affidavit is not on record on account of the delay in filing the same.

5.1. The delay in filing the aforesaid affidavit stands condoned.

5.2. The Registry shall take the aforesaid affidavit on record.

6. The relevant extracts from the affidavit are set out below:-

> *"8. That in due compliance with this Hon'ble Court's orders dated 22.07.2024, 04.11.2024 and 11.12.2024 Defendant No.2 is filing the present affidavit, wherein Defendant No.2 submits that it has ceased all operations in relation to both the Online Fantasy Sports game, "Striker", as well as other games, features and marketplace services. For over a year now, there have been no operations within the Defendant No.2 company.*
>
> *9. At present, Defendant No.2 has no intention of resuming the Online Fantasy Sports game, "Striker", which is the subject-matter of the present suit. That the present Affidavit is without prejudice to the rights and contentions of Defendant No.2."*

7. In addition, Mr. Amit Sibal, on instructions, submits that the defendant no.2 shall stand by the order passed Division Bench and confirms that in the event the defendant no.2 decides to relaunch its platforms, it will accord at least two weeks' notice to the plaintiffs.

7.1. The aforesaid statement is taken on record.

7.2. The defendant no.2 shall be bound by the same.

8. In view of the aforesaid, the present suit is dismissed as withdrawn with liberty to the plaintiffs to initiate a fresh suit in the event, the need so arises.

AMIT BANSAL, J

FEBRUARY 13, 2025
Vivek/-

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